

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

WAYNE WILSON, on Behalf of Himself  
and Others Similarly Situated,

*Plaintiff,*

v.

ATLAS OILFIELD CONSTRUCTION CO., LLC,

*Defendant.*

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Civil No. 5:14-CV-304

COLLECTIVE ACTION

**DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Atlas Oilfield Construction Co., LLC, the named Defendant in the above entitled and numbered cause, and files this its answer to Plaintiff's complaint and would respectfully show the Court the following:

**RESPONSES TO NUMBERED PARAGRAPHS**

1. The Defendant admits it is, in part, an oilfield service company and admits that some employees are paid a flat day rate. Defendant denies these employees regularly work more than 40 hours a week. Defendant admits that it does not pay overtime to employees who do not work more than 40 hours a week. Defendant denies any violation of the Fair Labor Standards Act (FLSA).

2. Admitted.

3. The Defendant admits venue is proper in this division and district but denies there was any unpaid overtime work.

4. Admitted.

5. The Defendant admits the day rate workers were generally paid a flat amount per diem; otherwise, denied as Wilson did not work in excess of 40 hours a week and denied as to no overtime paid for those who worked in excess of 40 hours in a particular week.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admit that Defendant has employed day rate workers in these states; otherwise, Admit Defendant does provide the required safety equipment; otherwise, denied.

10. Admitted.

11. Admitted.

12. The Defendant denies records of actual hours worked. Otherwise, the Defendant admits it has records showing the days workers like Plaintiff Wilson were on call.

13. Denied.

14. Denied.

15. Admit this applies for hours actually worked in excess of 40 hours a week.

16. Denied as to both statements.

17. Denied as to both statements.

18. Denied.

19. Denied.

20. Denied this is the Defendant's policy and denied that Defendant violates the FLSA.

21. Denied as to both statements.

22. Denied.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

AFFIRMATIVE DEFENSES

27. Pleading affirmatively, if same be necessary, Defendant would state that Plaintiff Wilson, and others similarly situated, if any, never actually worked in excess of 40 hours per week.

28. Pleading affirmatively, if same be necessary, Defendant would state that Plaintiff Wilson, and others similarly situated, if any, were provided a residence on site pursuant to 29 CFR § 785.23 and were waiting to be engaged.

29. Pleading affirmatively, if same be necessary, Defendant would state that Plaintiff Wilson, specifically, was fired in part, for failing to work even the 3-4 hours a day he was supposed to work.

30. Pleading affirmatively, Defendant would state that Plaintiff Wilson, and others similarly situated, if any, were exempt employees by salary and the right to manage and direct their respective work.

31. Pleading affirmatively, Defendant would state that Plaintiff Wilson, and others similarly situated, if any, agreed to be compensated only for the time they actually worked performing certain daily tasks that never required more than three or four hours a day of actual labor to complete.

PRAYER

WHEREFORE, HAVING ANSWERED HEREIN, Defendant Atlas Oilfield Construction Co., LLC prays that the true facts be ascertained, that it be relieved from any and all liability in connection with this lawsuit, it be discharged with its costs, and for such other and further relief to which it may show itself to be justly entitled.

Respectfully submitted,

BY: /s/ Robert B. Wagstaff  
**Robert B. Wagstaff**  
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**CERTIFICATE OF SERVICE**

This is to certify that a true copy of the above and foregoing instrument was filed electronically with the Court's electronic filing system and forwarded to all attorneys of record on this 25<sup>th</sup> day of April, 2014, in accordance with the Federal Rules of Civil Procedure and LR CV-5 of the Western District of Texas.

/s/ Robert B. Wagstaff  
**Robert B. Wagstaff**